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UNCLAS PRETORIA 004312

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TREASURY FOR GCHRISTOPULOS, LSTURM, AND AJEWEL  
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SUBJECT: APPROVAL OF SNO LICENSE - AN EMPTY GESTURE?

REFTEL: A) PRETORIA 3943  
B) PRETORIA 6384

(U) This cable is sensitive but unclassified. Not for Internet distribution.

**¶1.** (SBU) SUMMARY. Minister of Communications Ivy Matsepe-Casaburri conditionally approved a license for the Second National Operator (SNO) on September 17. The Independent Communications Authority of South Africa (ICASA) must now oversee negotiations to issue the license despite the lack of a shareholding agreement, business plan, and shareholders and subscription agreements. While some SNO shareholders are optimistic about the announcement, Nexus (the SNO's empowerment shareholder) argues that nothing has really changed and is proceeding with its call for a judicial review of the SNO process. END SUMMARY.

**¶2.** (U) As promised in her August 27 press conference, the Minister of Communication Ivy Matsepe-Casaburri approved a license for the Second National Operator (SNO) on September 17. Casaburri said the approval was subject to the following conditions: a) acceptance of the shareholding and control structure of the SNO; b) finalization of and agreement on the Business Plan; and c) finalization of the Shareholders and Subscription Agreements. The Minister has asked the Independent Communications Authority of South Africa (ICASA) to undertake the role of approving the applicants' submissions, including the shareholders agreement, business plan, and then the licensing of the SNO entity. (NOTE: While South African law allows the Minister to approve a license, only the regulator can issue the license. END NOTE).

**¶3.** (U) The Minister's August 27 announcement detailed changes to the shareholding structure and was also subject to the same conditions outlined in paragraph 2. Although all the SNO shareholders have yet to accept the Minister's proposed shareholding structure, she approved the license anyway. Industry stakeholders said that the Minister's approval of a license effectively places the burden of the SNO squarely on the shoulders of the regulator without actually resolving anything.

**¶4.** (SBU) A Nexus (the empowerment partner in the SNO) official told Econoff that since the Minister has yet to find a 26 percent shareholder for the strategic equity partner (SepCo) stake, nothing has really changed. According to the official, ComuniTel and TwoConsortium, the two failed bidders from the tender process who were awarded a combined 25 percent stake in SepCo, still remain in a position to control the SNO. As a result, Nexus has renewed its call for a judicial review of the SNO process. This process could derail the SNO for months.

**¶5.** (U) Nevertheless, some SNO stakeholders remain optimistic. Karl Socikwa Transtel CEO and SNO official spokesperson said he is "cautiously optimistic" that the the Minister's announcement would make the SNO network available by early next year, in time to capitalize on the opening of the services market in February. Deputy Minister of Communications Roy Padayachee also claims to have confirmation that Nexus will drop its legal action and that the SNO parties are moving forward. To date there has been no public comment on the Minister's proposed shareholding structure or her approval of the SNO license.

**¶6.** (U) Meanwhile, industry stakeholders are anxiously awaiting the Minister's October press conference where she has said she will elaborate on the telecom liberalizations to take place February 1, 2005.

FRAZER